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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,437	01/26/2004	Wade Spital	20056-7002	1536
35939 7590 12/28/2006 MICHAEL E. WOODS PATENT LAW OFFICES OF MICHAEL E. WOODS 112 BARN ROAD TIBURON, CA 94920-2602			EXAMINER WALTERS, JOHN DANIEL	
			ART UNIT 3618	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/28/2006	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/765,437	SPITAL, WADE	
	<b>Examiner</b>	<b>Art Unit</b>	
	John D. Walters	3618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 29,30,32-42 and 44-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29,30,32-42 and 44-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

Claims 29, 30, 32 – 42 and 44 – 55 have been examined. Claims 1 – 28 have been canceled by Applicant.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 52 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 52 states the limitation that "...said motive structure at said particular one vertex rotates about an axis perpendicular to said first direction when moving in said first direction..." It is unclear if the axis recited extends, in relation to the travel direction of said vehicle, upwardly and downwardly (a turning of a caster assembly) or from right to left (the spinning of a wheel about an axle). Appropriate clarification is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29, 30, 37, 38, 41, 42 and 49 – 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Kamen et al. (2001/0032743). Kamen et al. discloses a personal mobility vehicle composing:

- a rider support, i.e. a support platform (Fig. 1, item 12), which overlays the rest of the vehicle (Fig. 1);
- at least three wheels mounted below said rider support (page 3, paragraph 39);
- said at least three wheels creating static stable support (page 3, paragraph 40);
- said wheels rotating about an axis perpendicular to the direction of movement of said vehicle, i.e. about an axle;
- propulsion means (page 1, paragraph 4);
- said rider support having a steering control for enabling the rider to steer the vehicle by tilting side to side (page 8, paragraph 93);
- said rider support having a speed control for enabling the rider to modulate the speed of the vehicle by tilting forward and backward (page 8, paragraph 93);
- wherein the speed controller allows for forward and backward motion (page 5, paragraph 61);
- a speed control coupling, i.e. forceplate (page 5, paragraph 61);
- wherein said rider support is a platform like deck (Fig. 1, item 12);
- wherein said rider support is free of any upwardly extending supports (page 5, paragraph 61);
- wherein said rider support includes a seat (page 8, paragraph 92).

In regards to claims 50 and 51, it is inherent that a three wheel stable vehicle would arrange said wheels in any of a variety of triangular patterns.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamen et al. (2001/0032743). Kamen et al. does not specifically mention biasing springs as the mechanism to set the direction and/or speed of the device when no input is received. However, Kamen et al. does states:

- “transporter 18...may also maintain a fixed position and orientation when the user 10 is not on platform 12” (page 3, paragraph 40) using an electro-mechanical control system (Fig. 5), i.e. the device is biased towards no movement and no pivoting if no user input is available.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to use a purely mechanical biasing means, i.e. biasing springs, in place of the electro-mechanical control system of Kamen et al. to bias the speed and directional controls of the vehicle. This would allow for a simple, inexpensive control system.

Claims 32, 39, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamen et al. (2001/0032743) in view of White Sr. (3,751,062). Kamen et al. is silent on the inclusion of a removable handle. White Sr., however, discloses a scooter skateboard comprising:

- a removable handlebar (Fig. 1, items 14, 16, 18, and others making up the removable handle assembly).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the vehicle of Kamen et al. with the removable handle of White Sr. in order to provide a quickly removed steadying handle which can allow for multiple riding styles for said vehicle.

Claims 33, 40, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamen et al. (2001/0032743) in view of Favorito et al. (6,199,880). Kamen et al. is silent on the inclusion of a foldable handle. Favorito et al., however, discloses a convertible skateboard/scooter comprising:

- a handle (Fig. 1, item 300);
- a clamping articulation, i.e. handle bracket (Fig. 6, item 600).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the vehicle of Kamen et al. with the foldable handle of Favorito et al. in order to provide an attached but easily stowed handle which can allow for multiple riding styles for said vehicle.

Claims 34 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamen et al. (2001/0032743) in view of Martin (5,020,621). Kamen et al. does not make use of truck type wheel assemblies. Martin, however, discloses an electric motor powered skateboard comprising:

- a steerable truck attached below the body support (Fig. 1, items 12 and 13);
- at least two wheels being truck wheels (Fig. 4, item 16);
- a steering union, i.e. blocks (Fig. 4, item 14);
- at least one remaining wheel being a drive wheel rotationally coupled to a motor (Fig. 5);
- where said drive wheel is located substantially in front or behind said truck wheels (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the vehicle of Kamen et al. with the truck type wheel assemblies of Martin in order to provide simple and inexpensive wheel system.

Claims 35 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamen et al. (2001/0032743) in view of Martin (5,020,621) as applied to claims 16 and 26 above, and further in view of Buscaglia (6,193,249). Kamen et al. in view of Martin does not include a linkage between the wheel trucks and the body support. Buscaglia, however, discloses a turning mechanism for tandem wheeled vehicles comprising:

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- a steering linkage coupling the body support to the steerable truck (Fig. 1a, item 30).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide the vehicle/truck combination of Kamen et al. and Martin with the steering linkage of Buscaglia in order to assist the turning of the truck via tilting the body support.

### ***Response to Arguments***

Applicant's arguments filed 12/26/2005 have been fully considered but they are not persuasive.

Applicant states, "...applicant believes the pending application is in condition for allowance."

See the above rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Walters whose telephone number is (571) 272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone



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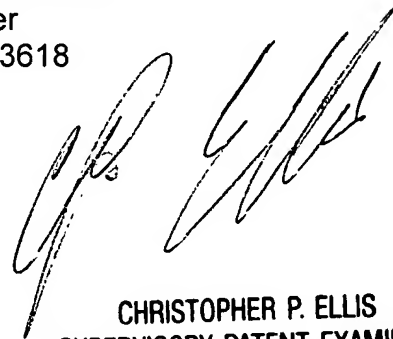
number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDW



John D. Walters  
Examiner  
Art Unit 3618



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